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**THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF CALIFORNIA**

YINTAO YU, an individual,

Plaintiff

v.

BYTEDANCE INC., a Delaware Corporation;
SHUYI (SELENE) GAO, an individual,

Defendants

BYTEDANCE INC., a Delaware Corporation,

Counter-Claimant

v.

YINTAO YU, an individual,

Counter-Defendant

Case No. 3:23-cv-04910-SI

**NOTICE OF AVAILABILITY OF
FOREIGN WITNESS HAIYI BAO**

[Originally San Francisco Superior Court No.
CGC-23-608845]

State Action Filed: September 5, 2023
Removal Date: September 25, 2023
Trial Date: November 18, 2024

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SHUYI (SELENE) GAO

1 **TO THE CLERK AND COURT:** Defendants ByteDance Inc. (“BDI”) and Shuyi (Selene) Gao
2 submit this notice of witness availability for foreign witness Haiyi Bao in advance of the court-ordered
3 evidentiary hearing related to Defendants’ Motion for Terminating Sanctions.

4 On October 25, 2024, Defendants filed a Motion for Terminating Sanctions based, in part, on Yu’s
5 fabrication of evidence—namely, an “anonymous” declaration he later represented as being signed by
6 former ByteDance Group Human Resources Business Partner Haiyi Bao. Ms. Bao, however, never
7 reviewed or signed this declaration. On October 29, 2024, this Court scheduled an evidentiary hearing
8 regarding Defendants’ Motion for Terminating Sanctions and ordered Ms. Bao to testify at that hearing.
9 *See* ECF 210. The hearing is currently scheduled for November 18, 2024. *Id.*

10 As relevant here, Ms. Bao is a citizen of the People’s Republic of China and lives in Hangzhou,
11 China. She is currently the primary caretaker for and still breastfeeding her 21-month-old son, and she
12 cannot leave him to travel to the United States to testify in this matter. Ms. Bao also cannot provide oral
13 testimony from China. *See* Article 277 of Chinese Civil Law; *see also Yan v. Zhou*, 2021 WL 4059478, at
14 *3 (E.D.N.Y. Sept. 7, 2021) (“conducting the plaintiff’s trial testimony remotely while he was located in
15 China violated Section 277 of the Civil Procedure Law of the People’s Republic of China, which exposed
16 Plaintiff and the questioning attorneys to legal sanctions”) (internal citations omitted).

17 Ms. Bao is willing to travel to Seoul, South Korea for one day to testify that she did not sign the
18 anonymous declaration, permitted she is able to timely secure a visa in order to do so. There is a 17-hour
19 time difference between Seoul and San Francisco, making it extremely difficult for Ms. Bao to testify
20 during normal operating hours for the court. Defendants therefore propose the following options for the
21 Court’s consideration:
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- 23 1. Defendants will take Ms. Bao’s deposition from South Korea in advance of the evidentiary
24 hearing. We propose that the deposition: (1) be limited to testimony regarding the anonymous
25 declaration; (2) not exceed one (1) hour; and (3) be video recorded. Defendants propose that
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1 the Court provide any specific questions for Ms. Bao to the Parties in advance of the deposition,
2 and Defendants will ensure those questions are posed to Ms. Bao during her deposition.
3 Following her deposition, Defendants would submit Ms. Bao's video-recorded testimony to the
4 Court for its review and consideration.

- 5 2. Alternatively, Ms. Bao can testify at the upcoming evidentiary hearing outside of normal
6 operating hours. Ms. Bao can likely be made available at 6 p.m. PST.

7 Defendants respectfully request clarification from the Court as to how it would like to proceed with
8 Ms. Bao's testimony in light of the fact that Ms. Bao lives abroad, cannot testify from her home country
9 without being subject to legal sanctions, and has extremely limited availability to travel given her status as
10 a primary caretaker for her child.
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12
13 DATED: November 7, 2024

GREENBERG TRAURIG, LLP

14 By:



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18 Attorneys for Defendant / Counter-Claimant
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